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H.416

Introduced by Representatives Waite-Simpson of Essex, Conquest of

Newbury, Goodwin of Weston, and Marek of Newfane

Referred to Committee on

Date:

Subject: Court procedure; service of process; trespass

Statement of purpose of bill as introduced: This bill proposes to protect law enforcement officers from being subject to trespass liability for serving civil or criminal process.

An act relating to trespass liability for service of process

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. § 691 is amended to read:

§ 691. SERVICE OF CIVIL OR CRIMINAL PROCESS

(a) Sheriffs and constables may serve either civil or criminal process, anywhere within the ~~state~~ State and returnable to any court.

(b) Sheriffs and constables shall not be subject to civil or criminal liability for unlawful trespass in serving either civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, provided the scope of their entrance onto the property of another is no more than necessary to effectuate the service of process.

1 Sec. 2. 13 V.S.A. § 3705 is amended to read:

2 § 3705. UNLAWFUL TRESPASS

3 (a) A person shall be imprisoned for not more than three months or fined
4 not more than \$500.00, or both, if, without legal authority or the consent of the
5 person in lawful possession, he or she enters or remains on any land or in any
6 place as to which notice against trespass is given by:

7 (1) Actual communication by the person in lawful possession or his or
8 her agent or by a law enforcement officer acting on behalf of such person or
9 his or her agent; or

10 (2) Signs or placards so designed and situated as to give reasonable
11 notice.

12 (b) Prosecutions for offenses under subsection (a) of this section shall be
13 commenced within 60 days following the commission of the offense and not
14 thereafter.

15 (c) A person who enters a building other than a residence, whose normal
16 access is locked, or a residence in violation of an order of any court of
17 competent jurisdiction in this ~~state~~ State shall be imprisoned for not more than
18 one year or fined not more than \$500.00, or both.

19 (d) A person who enters a dwelling house, whether or not a person is
20 actually present, knowing that he or she is not licensed or privileged to do so

1 shall be imprisoned for not more than three years or fined not more than
2 \$2,000.00, or both.

3 (e) A person shall not be prosecuted under this section if he or she is
4 authorized to serve civil or criminal process, including citations, summons,
5 subpoenas, warrants, and other court orders, and the scope of his or her
6 entrance onto the land or place of another is no more than necessary to
7 effectuate the service of process.

8 Sec. 3. 24 V.S.A. § 1935 is amended to read:

9 § 1935. POWERS

10 Police officers who are employed by a police department established under
11 this chapter or pursuant to charter shall have the same powers as sheriffs in
12 criminal matters and the enforcement of the law and the same powers,
13 immunities, and matters of defense in serving criminal and civil process. The
14 powers granted to police officers under this section may be exercised
15 statewide.

16 Sec. 4. EFFECTIVE DATE

17 This act shall take effect on passage.